PART IV

Section 1-B.

CENTRAL ACTS AND ORDINANCES AND ORDERS UNDER THE CONSTITUTION BY THE PRESIDENT.

NOTIFICATION.

No. L.D. 984—Legis. 4-52-36, dated Bangalore, 30th August 1952.

Ordered that the Preventive Detention (Second Amendment) Act, 1952 (Central Act No. LXI of 1952), published in the Gazette of India, Part II, Section 1, dated the 22nd August 1952, be republished in the *Mysore Gazette*, for general Information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and Secretary to Government, Law Department.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

Received Assent on 22nd August 1952.

THE PREVENTIVE DETENTION (SECOND AMENDMENT) ACT, 1952

(LXI OF 1952)

AN

ACT

further to amend the Preventive Detention Act, 1950.

BE it enacted by Parliament as follows :—

1. Short title and commencement.—(*1*) This Act may be called the Preventive Detention (Second Amendment) Act, 1952.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 1, Act IV of 1950.—In sub-section (*3*) of section 1 of the Preventive Detention Act, 1950 (hereinafter referred to as the principal Act), for the words and figures "1st day of October, 1952" the words and figures "31st day of December, 1954" shall be substituted.

3. Amendment of section 2, Act IV of 1950.—In section 2 of the principal Act, in clause (*a*), for the words " Chief Commissioner " the words " Lieutenant-Governor or, as the case may be, the Chief Commissioner " shall be substituted.

4. Amendment of section 3, Act IV of 1950.—In section 3 of the principal Act,—

(*i*) in sub-section (*3*), for the words " have a bearing on the necessity for the order ", the following words shall be substituted, namely :—

" have a bearing on the matter, and no such order made after the commencement of the Preventive Detension (Second Amendment) Act, 1952, shall remain in force for more than twelve days after the making thereof unless in the meantime it has been approved by the State Government.";

(*ii*) after sub-section (*3*), the following sub-section shall be inserted, namely :—

" (*4*) When any order is made or approved by the State Government under this section, the State Government shall, as soon as may be, report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as in the opinion of the State Government have a bearing on the necessity for the order."

5. Amendment of section 6, Act IV of 1950.—Section 6 of the principal Act shall be re-numbered as sub-section (*1*) thereof, and after that sub-section as so renumbered, the following sub-section shall be inserted namely :—

" (*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), every offence under clause (*b*) of sub-section (*1*) shall be cognizable."

6. Amendment of section 7, Act IV of 1950.—In sub-section (*1*) of section 7 of the principal Act, for the words " as soon as may be ", the words " as soon as may be, but not later than five days from the date of detention " shall be substituted.

7. Amendment of section 8, Act IV of 1950.—In section 8 of the principal Act,—

(*a*) in sub-section (*2*) the proviso shall be omitted;

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely :—

" (*3*) The appropriate Government shall appoint one of the members of the Advisory Board who is or has been a Judge of a High Court to be its Chairman, and in the case of Part C State the appointment to the Advisory Board, of any person who is a Judge of the High Court of a Part A State or a Part B State shall be with the previous approval of the State Government concerned :

Provided that nothing in the sub-section shall affect the power of any Advisory Board constituted before the commencement of the Preventive Detention (Second Amendment) Act, 1952, to dispose of any reference under section 9 pending before it at such commencement."

8. Substitution of new section for section 9, Act IV of 1950.—For section 9 of the principal Act, the following section shall be substituted, namely :—

" 9. *Reference to Advisory Boards.*—In every case where a detention order has been made under this Act, the appropriate Government shall, within

thirty days from the date of detention under the order, place before the Advisory Board constituted by it under section 8 the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer, also the report by such officer under sub-section (3) of section 3."

9. Amendment of section 10, Act IV of 1950.—In section 10 of the principal Act,—

(*a*) for sub-section (*1*), the following shall be substituted, namely :—

"(*1*) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if in any particular case it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government within ten weeks from the date of detention.";

(*b*) in sub-section (*3*), the words "to attend in person or" shall be omitted, and for the words "legal representative" the words "legal practitioner" shall be substituted.

10. Insertion of new section 11A in Act IV of 1950.—After section 11 of the principal Act, the following section shall be inserted, namely :—

"11A. *Maximum period of detention.*—(*1*) The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 11 shall be twelve months from the date of detention.

(*2*) Notwithstanding anything contained in sub-section (*1*) every detention order which has been confirmed under section 11 before the commencement of the Preventive Detention (Second Amendment) Act, 1952, shall, unless a shorter period is specified in the order, continue to remain in force until the 1st day of April, 1953, or until the expiration of twelve months from the date of detention, whichever period of detention expires later.

(*3*) The provisions of sub-section (*2*) shall have effect notwithstanding anything to the contrary contained in section 3 of the Preventive Detention (Amendment) Act, 1952 (XXXIV) of 1952, but nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time."

11. Amendment of section 13, Act IV of 1952.—For sub-section (*2*) of section 13 of the principal Act, the following sub-section shall be substituted, namely :—

"(*2*) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the Central Government or a State Government or an officer, as the case may be, is satisfied that such an order should be made."

K. Y. BHANDARKAR,
Secretary to the Government of India.